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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/081,417      | 02/22/2002  | Rodney G. Moon       | CHA920010020US1     | 1023             |

23550 7590 10/19/2006

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ALBANY, NY 12207

EXAMINER

MACKOWEY, ANTHONY M

| ART UNIT | PAPER NUMBER |
|----------|--------------|
|----------|--------------|

2624

DATE MAILED: 10/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action  
Before the Filing of an Appeal Brief**

Application No.

10/081,417

Applicant(s)

MOON ET AL.

Examiner

Anthony Mackowey

Art Unit

2624

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 29 September 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.  
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☒ They raise the issue of new matter (see NOTE below);  
(c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.

6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_.

Claim(s) objected to: \_\_\_\_\_.

Claim(s) rejected: 1-3, 5-10, 12-16 and 18-22.

Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

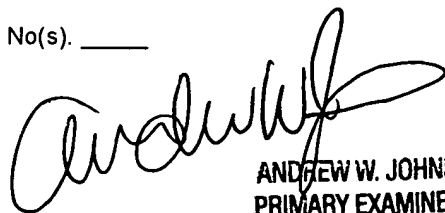
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.

12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_

13. ☐ Other: \_\_\_\_\_.

  
ANDREW W. JOHNS  
PRIMARY EXAMINER

Continuation of 11. does NOT place the application in condition for allowance because:

Applicant's arguments filed September 29, 2006 have been fully considered but they are not persuasive.

Applicant's arguments presented on page 6, lines 19 – page 18 are directed towards Examiner's objection to the specification because it introduced new matter into the discloses (Final Office Action mailed July 31, 2006, page 3) and rejection of claims 1-3, 5-10, 12-16 and 18-22 under 35 U.S.C 112, first paragraph, as failing to comply with the written description requirement (Final Office Action mailed July 31, 2006, page 4). Applicant asserts the Examiner has "unfoundly narrowed the scope of the data obtained by, and the scope of the meaning of, a magnetic read head" (page 6, last 3 lines), arguing it is well known in the art that electronic signals/waveforms need to be converted to digital data to be processed and that a magnetic read head as used in the current invention inherently includes a mechanism to convert electrical signals to digital data (page 6, last line – page 7, line 3). Applicant refers to Kruppa (US 6,243,504) teaching signal images converted to digital data. Examiner directs attention to Figure 5 of Kruppa, which clearly shows the magnetic read head 501 and the analog to digital converter 505 are separate elements. The magnetic read head does not perform the A/D conversion itself. Therefore, the Examiner submits that although it may be well known in the art to convert the output of a magnetic read head to digital data as shown by Kruppa, the data obtained by a magnetic read head and that of a device/system using a magnetic read head is different. Applicant has attempted to change the scope of the converted data from "data obtained by a multigap MICR read head" to "digitized data obtained by a character recognition device using a multigap MICR read head" which Examiner clearly understands to be new matter. Applicant has failed to cancel the new matter and therefore the objection and rejection are maintained.

Applicant's arguments present on page 7, line 20 – page 8 are directed towards Examiner rejection of claims 1-3, 5-10, 12-16 and 18-22 under 35 U.S.C 112, first paragraph, as failing to comply with the enablement requirement (Final Office Action mailed July 31, 2006, page 4-6). In the Final Office Action the Examiner explained the differences between pixel data obtained by an optical character reader and data obtained by a magnetic read head (page 5, line 12 – page 6, line 3). Applicant disagrees with Examiner assertion that even if both set of data are digital the signals are not equivalent because the real world characteristics they represent are not the same, stating, "the data obtained by the magnetic read head and the OCR scanner both represent the E13B character data." Examiner again refers to the Final Office Action where the examiner discusses the data obtained by an OCR scanner and a magnetic read head (page 5, lines 12-19). Data obtained by the OCR scanner is an array of pixel data, whereas the signal obtained by a MICR read head is pulses produced as the read head traverses boundaries of magnetic and non-magnetic regions of the characters and thus corresponds to edge information, not pixel information. The converted pixel data (digital or otherwise), which has been scaled and converted to black and white, is still pixel data of the E13B characters, not the edge characteristics of the E13B characters as the data obtained by a magnetic read head represents. Although the pixel data and magnetic read head data both represent E13B character data as stated by the Applicant, they do not represent the same characteristics of the E13B character data, and thus the signals (digital or otherwise) are different and clearly cannot be considered equivalent. Examiner maintains one skilled in the art would not be able to make and/or use the invention as currently disclosed or claimed because the conversion system does not result in data that can be input into a conventional MICR recognition engine and result in meaningful character recognition. Additional processing is clearly required to convert the pixel data to data of equivalent specification to that obtained by a multigap MICR read head beyond scaling, black and white formatting and even digitization, however no such additional processing is disclosed or even implied by the original disclosure, nor could it be considered inherent. Examiner also does not believe these additional steps can be determined and implemented without undue effort. The rejection under 35 U.S.C 112, first paragraph, as failing to comply with the enablement requirement is maintained.